

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

BERTRUM JEAN, Individually and as the	§	
surviving father of BOTHAM SHEM JEAN,	§	
ALLISON A. JEAN, Individually and as the	§	
surviving mother of BOTHAM SHEM JEAN,	§	
and ALLISA E. FINDLEY as the	§	
Administrator of the Estate of	§	CIVIL ACTION NO.
BOTHAM SHEM JEAN,	§	
Plaintiffs,	§	3:18-CV-2862-M
	§	
v.	§	
	§	
THE CITY OF DALLAS, TEXAS,	§	
and AMBER GUYGER,	§	
Defendants.	§	

**THE DEFENDANT CITY OF DALLAS’S MOTION TO EXTEND THE DEADLINE
TO FILE ITS REPLY BRIEF, AND BRIEF IN SUPPORT**

TO THE HONORABLE COURT:

The Defendant City of Dallas (“the City”) files this motion to extend the deadline for the City to file its reply in support of its Rule 12(b)(6) motion to dismiss, to and including Monday, 7 January 2019.

The Plaintiffs’ counsel has not stated whether the Plaintiffs oppose this motion.

I. SUMMARY OF THE MOTION

On 29 November 2018, the City filed a motion pursuant to Rule 12(b)(6) to dismiss the claims alleged against it in the Plaintiffs’ original complaint (ECF No. 7). The Plaintiffs filed a timely response in opposition to the City’s dispositive motion on 19 December 2018 (ECF No. 9). Per this Court’s local rule, the City’s reply brief is due by Wednesday, January 2, 2019. The City now moves the Court to extend the deadline for the City’s response by five (5) days, to and including Monday, 7 January 2019.

II. ARGUMENT AND AUTHORITIES

A. Applicable legal standard

Rule 6(b)(1)(A) of the Federal Rules of Civil Procedure controls extensions of time to file papers before the time has expired:

(b) Extending Time.

(1) In General. When an act may or must be done within a specified time, the court may, for good cause, extend the time:

(A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires.

B. Facts supporting the extension requested

Despite diligent efforts, the City requires additional time to file its reply. In addition to the usual obligations of the holiday season,¹ the undersigned has attended to the preparation of an appellees' brief to be filed in the Fifth Circuit Court of Appeal in *Collette Flanagan et al. v. City of Dallas et al.*, No. 18-10334, and final trial preparations in *Cassandra Luster et al. v. City of Dallas et al.*, No. 3:16cv0396-B, which is set on this Court's four-week docket beginning on 14 January 2019. These matters, along with several others, have impeded the undersigned's ability to complete the City's reply brief that is the subject of this motion.

C. Application of the Rule 6(b)(1)(A) factors to this motion

The City has shown that it has exercised diligence to complete its reply brief by the existing deadline, but has been unable to meet the deadline because of factors not within the control of the City or its counsel. The requested extension, of three (3) business days, will not unduly delay disposition of the City's dispositive motion. Therefore, the City has shown that good cause exists to extend the reply brief deadline.

¹ The City's lead counsel, who is tasked with preparation of the City's reply brief, was out of the state on holiday from 19-30 December 2018. The undersigned had limited access to the City's electronic files during that time.

WHEREFORE, the City requests the Court to enter an order extending the deadline as set out in this motion, and to further enter any orders as are consistent with this motion to which the City is entitled.

Respectfully submitted,

CITY ATTORNEY OF THE CITY OF DALLAS

Christopher J. Caso
Interim City Attorney

s/ Jason G. Schuette
Senior Assistant City Attorney
Texas State Bar No. 17827020
jason.schuette@dallascityhall.com

Amy I. Messer
Senior Assistant City Attorney
Texas State Bar No. 00790705
amy.messer@dallascityhall.com

7DN Dallas City Hall
1500 Marilla Street
Dallas, Texas 75201
Telephone: 214-670-3519
Telecopier: 214-670-0622

ATTORNEYS FOR THE DEFENDANT
CITY OF DALLAS

CERTIFICATE OF CONFERENCE

I certify that on 31 December 2018 and on 2 January 2019, I attempted to confer with counsel for the Plaintiffs, Daryl K. Washington, regarding the merits of this foregoing motion. As of the filing of this motion, I have not received a response from Mr. Washington. Therefore, I assume that the Plaintiffs oppose the relief requested.

s/ J. G. Schuette
Senior Assistant City Attorney

CERTIFICATE OF SERVICE

I certify that 2 January 2019, I electronically filed the foregoing document with the clerk of the court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. The electronic case filing system sent a “Notice of Electronic Filing” to the following attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means:

Daryl K. Washington
Law Office of Daryl K. Washington, P.C.
325 N. St. Paul St., Suite 3950
Dallas, Texas 75201

s/ J. G. Schuette
Senior Assistant City Attorney